

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 08-cr-12-bbc

STEVEN M. SKOIEN,

Defendant.

DEFENDANT'S THIRD MOTION TO POSTPONE REPORT DATE

The Defendant, Steven Skoien, by counsel, respectfully moves the Court to postpone the date by which he is required to report to the Bureau of Prisons to begin serving his sentence. For the reasons that follow, Skoien requests that his report date be postponed until after September 15, 2009.

1. Skoien was convicted, based upon his conditional guilty plea, of possessing a firearm after having been convicted of a misdemeanor crime of domestic violence. On October 24, 2008, the Court sentenced him to 24 months of imprisonment, but suspended the execution of that sentence until January 15, 2009. The Court indicated at the sentencing hearing that it was going to make Skoien's report date December 1, 2008, but extended it until January 15, 2009, to allow Skoien as much time as possible to have surgery on his torn rotator cuff. *See* Sentencing Transcript at 17. Based upon Skoien's motion, the Court then further

delayed his report date until March 16, 2009, and again until June 15, 2009, to allow him to have surgery.

2. Skoien was first able to see a specialist on January 15, 2009, at which time his surgery was scheduled for February 18, 2009. The specialist, James J. Prosser, DO, discovered that, in addition to any rotator cuff injury, Mr. Skoien was also suffering from "frozen shoulder." This second ailment prevented surgery to repair Skoien's rotator cuff until after his frozen shoulder is remedied. Thus, on February 18, 2009, Dr. Prosser conducted arthroscopic surgery to repair Skoien's frozen shoulder. After Skoien recovered from that surgery, he then underwent a second surgery on May 26, 2009 to repair his torn rotator cuff. As a result of that second surgery, Skoien's shoulder is still immobilized and he is expected to begin physical therapy shortly. Although we are still awaiting a written report from Skoien's doctor, William Pennington, MD, and will file it as soon as it is received, we spoke with his office this afternoon and were informed that it is Dr. Pennington's opinion that Skoien's recovery will take at least two months and that it would be detrimental to his recovery to be in prison during that time.

3. Counsel has discussed this matter with Assistant United States Attorney Timothy O'Shea. At Mr. O'Shea's request, I am informing the Court of the following position: "the United States believes that an expedited hearing is

appropriate to determine whether Mr. Skoien can receive adequate care and rehabilitation assistance within U.S. Bureau of Prisons custody." If the Court decides to hold such a hearing, undersigned counsel informs the Court that he will be out of town at a conference sponsored by the United States Sentencing Commission from June 9 through June 13, 2009. Therefore, the earliest he could appear at any such hearing would be June 15, 2009, which is the date currently scheduled for Skoien's report to prison. Therefore, counsel would request at least a temporary postponement of that report date in the event the Court wishes to hold a hearing.

For the foregoing reasons, Skoien respectfully requests the Court to postpone his report date until after September 15, 2009.

Dated at Madison, Wisconsin June 5, 2009.

Respectfully submitted,
STEVEN M. SKOIEN, *Defendant*

/s/ Michael W. Lieberman
Michael W. Lieberman, Bar #1059034

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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing to be served via the Court's CM/ECF system to Assistant United States Attorney Timothy O'Shea, this 5th day of June, 2009.

/s/ Michael W. Lieberman

Michael W. Lieberman